



Report of the Chief Planning Officer

CITY PLANS PANEL

Date: 29th June 2017

Subject: 16/05981/OT - Outline application (all matters reserved except for partial means of access to, but not within the Site) for residential development up to 770 dwellings and convenience store together with creation of new areas of public open space and drainage attenuation works,

On land at Dunningley Lane, Tingley, WF3 1SJ

Applicant – The Sir Robert Ogden Partnership

Electoral Wards Affected:

Wetherby

Yes

Ward Members consulted

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: To contest the appeal that has been made against the non-determination of the planning application for the following putative reasons:

- 1. The proposal is contrary to policy SP1 of the adopted Core Strategy which sets out the spatial development strategy for Leeds, being based on the Leeds settlement hierarchy and which aims to concentrate the majority of development within and adjacent to the main urban area and major settlements where it can benefit from existing services, adequate levels of accessibility and priorities for urban regeneration. The appeal site is isolated from existing patterns of development and is neither located within, nor forms an extension to, the Main Urban Area, a Major Settlement or a Smaller Settlement. The proposed development fails also to demonstrate how important sustainability factors such as adequate local school provision are to be met. The proposed location for the residential development is not considered to be a sustainable.**
- 2. Development in this unsustainable, remote location is contrary to paragraph 70 of the NPPF which in part provides that decisions "...ensure an integrated approach to considering the location of housing, economic uses and community facilities**

and services”. The proposal is also contrary to paragraph 38 of the NPPF which seeks that, where practical “...key facilities such as primary schools and local shops should be located within walking distance of most properties”. The appeal site lies outside the Main Urban Area, in a location which is unacceptably remote from local services. The sustainability-related measures promoted are insufficient to offset or outweigh this important deficiency. The proposed location is not sustainable for residential development.

3. There is insufficient information submitted with the application to demonstrate that an acceptable level of accessibility can be achieved for the scale of development proposed. The appeal site does not meet the accessibility standards for housing to be located within a 5 minute walk to a bus stop that offers a direct service to a major public transport interchange at a 15 minute frequency as set out in the adopted Accessibility Standards of the Core Strategy. The proposal is contrary to policies SP1, T2 and H2 of the Leeds Core Strategy and policy GP5 of the adopted UDP Review and guidance in the NPPF.
4. The appeal site is allocated as a Protected Area of Search (constituting safeguarded land for the purposes of the NPPF, paragraph 85, etc.) through (saved) Policy N34 of the UDP Review. The release of this PAS site for housing would be contrary to Policy N34. Development of the PAS site would unacceptably undermine the plan led system and be contrary to paragraph 85 (bullet 4) of the NPPF which states that “*planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review, which proposes the development*”.
5. Development of the appeal site would predetermine decisions relating to the scale and phasing of new housing development and the designation of safeguarded land for homes and jobs beyond the plan period that is set out within the (highly advanced) Submission Draft/Site Allocations Plan (SAP). The proposal would have a prejudicial, pre-determinative effect on decision-taking with regards to directing new development through the SAP and community involvement in the plan-making process. The appeal site accounts for 18% of the total housing site allocations for the Outer South West HMCA. The development is considered to be unacceptably premature, contrary to the Planning Practice Guidance.
6. The proposal fails to demonstrate that the local highway infrastructure, including the proposed site access off A653 Dewsbury Road and off A654 Thorpe Lane, and the wider highway network which will be affected by additional traffic as a result of this development, is capable of safely accommodating these impacts and adequately accommodating the attendant increase in traffic, cycle and pedestrian movements generated by the proposed development. The proposal is contrary to Policy T2 of the Core Strategy, Policy GP5 of the UDP Review and the sustainable transport guidance contained in the NPPF which combined requires development not to create or materially add to problems of safety, environment or efficiency on the highway network.
7. In the absence of a suitable Section 106 agreement the proposed development fails to provide necessary contributions and/or obligations for the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities and off site highway works, without which the proposed development would fail to meet directly (and fairly and reasonably) related needs of the City and of prospective residents, contrary to the requirements of Policy GP5 of the adopted UDP Review, related Supplementary Planning Documents, Policies H5, H8, P9, T2, G4 and ID2 of the

Leeds Core Strategy and the NPPF.

1.0 Introduction:

- 1.1 The application is presented to City Plans Panel following the submission of an appeal against non-determination to the Secretary of State by the applicant on 15 February 2017.
- 1.2 As part of the anticipated appeal process, the Local Planning Authority (LPA) will in due course submit evidence in explanation of its assessment of the application. In light of the views of officers on the application as submitted (that it is not acceptable) it is necessary for the LPA to determine how it would have been minded to determine the application and evidence what its (putative) reasons for refusal would have been had it determined the application. Accordingly, this report recommends to Members multiple putative reasons for refusal and accordingly seeks a decision from Panel.
- 1.3 The planning application was submitted on 4 October 2016. Since that time officers have considered consultation responses and local representations in order to negotiate with the applicant with the intention of narrowing the basis for objection/refusal.
- 1.4 Members are also made aware that the applicant submitted on 2 March 2017 a new application for the appeal site in attempt to resolve outstanding issues and circumvent the pursuit of the appeal. The new application 17/01103/OT is a resubmission of application 16/05981/OT.

2.0 Site and Surroundings:

- 2.1 The appeal site comprises 33ha and is located within South Leeds lying immediately to the north of the M62 motorway junction 28 with the A653 Dewsbury Road to the west, and the A654 Thorpe Lane to the east. The appeal site lies to the west of the Morley. The town centre lies approximately 2 km away. The settlement of Middleton lies approximately 1.5 km to the east. Tingley West and East Ardsley lie to the south over the motorway. Capitol Park is accessed off Dewsbury Road to the west. The White Rose Shopping Centre lies 2km to the north, along Dewsbury Road. Open fields lie to the north of the site. Denshaw Beck runs south to north across the site. The appeal site is grassed and has the appearance of a green field.
- 2.2 The appeal site forms part of a larger site which is designated as a Protected Area of Search in the UDP Review for the purposes of Policy N34 and is proposed in the Submission Draft/Site Allocations Plan (SAP) to be designated as safeguarded land for housing or employment uses, under Policy HG3-23 (with 43.1 ha having the potential for 1,050 homes).
- 2.3 The appeal site does not include the southern part of the wider PAS site.
- 2.4 Historically Tingley Station was located on the south-western part of the appeal site. Tingley Station closed to passengers in 1966. The appeal site of the station

and railway embankments and cutting (now filled) are features that lie across it, on an east-west axis. The appeal site is open with a general fall towards a low point at the north western corner. The southern boundary falls generally west to east. The western boundary falls generally south to north away from the south western corner of the appeal site. The northern boundary rises from the north western corner of the appeal site.

- 2.5 The site is predominantly agricultural, with 57.3% of the wider PAS site being graded as Grade 2 Agricultural Land and 36% being Grade 3a Agricultural Land.

3.0 Proposals

- 3.1 This proposal is for: 'Outline planning permission (all matters reserved except for partial means of access to, but not within the site) for residential development of up to 770 dwellings together with the creation of new areas of public open space some of which are not within the redline boundary but within the appellant's control and 4000ft² convenience store with primary access taken off the A654 Thorpe Lane'.

- 3.2 The application was submitted with supporting documentation, including an illustrative masterplan and other associated drawings.

4.0 Relevant Planning History

- 4.1 The planning history primarily discloses agricultural use, in addition to use for the tipping of inert and waste materials.

- 4.2 An EIA screening opinion was submitted to the LPA on 29 April 2014 (ref. PREAPP/14/00428). A response was sent on 8 July 2014 which confirmed that the LPA agreed with the appellant's assessment of the potential impacts of the development such and that a full EIA should be submitted in support of any future planning application.

- 4.3 An identical planning application was submitted on 2 March 2017, after the appeal was submitted. This application remains pending consideration of this Department. The LPA and the applicant are working with Highway officers and Highways England to resolve highways issues together with other detailed issues.

5.0 Public / Local response

- 5.1 The application has been advertised by four site notices which were posted around the appeal site on 21 October 2016 and through publication in the press, dated 14 October 2016. The application was advertised as a departure, affecting a right of way, and was accompanied by an Environmental Statement.

- 5.2 MP Andrea Jenkyns has objected to the proposed development on the following grounds:

- i) Development of any sort would be difficult due to additional traffic which would be generated around Junction 28 of the M62;

- ii) The staggered crossroads on the 4650 at Blackgates is already overloaded and in the evening peak traffic backs up from Smithy Lane towards J28, on occasion preventing vehicles leaving the west-bound exit promptly; a small increase of backing up on the slip-road would bring vehicles to a stand on the westbound carriageway of the M62, which would be highly dangerous;
- iii) This site shouldn't have been removed from Green Belt, UDP Inspector was persuaded narrowly that the site might be needed for employment, since a projected supertram route would have skirted its south-eastern boundary;
- iv) The impact of this development on our schools, health services, and road networks must be properly thought-through in advance of building work;
- v) No exceptional circumstances exist to allow the development of this site.

5.3 Councillor Jack Dunn has objected on the following grounds:

- i) The proposal is an attempt to by-pass the Site Allocation Process and has no merit.

5.4 Leeds Civic Trust has objected on the following grounds:

- i) PAS sites should only be developed when all other allocated land has been developed;
- ii) The proposal fails on the adopted accessibility standards (walking and cycling) and is not a sustainable form of development
- iii) Public transport links are poor;
- iv) Good access to public transport is essential to mitigate climate change by reducing fuel consumption and air pollution associated with unnecessary trips by private vehicles.

5.5 Spawforths Planning Consultancy has objected on behalf of the owners of Capitol Park J28 M62 Ltd, making the following points:

- i) The Transport Assessment does not consider committed schemes at Capitol Park;
- ii) This omission must be challenged because proper assessment of the application proposals cannot be undertaken without thorough and robust assessment of all committed developments. Without this information, there is no certainty that potential impacts of the proposals will be robustly assessed and, importantly, that suitable mitigation measures will be confirmed and delivered;
- iii) We note Highways England consider the raw traffic data is out-of-date and, as such, the assessments have not fully assessed changes in circumstances on the highway network within the area;
- iv) The consequential Noise and Air Quality Assessments have also failed to robustly assess the environmental impacts of the development

proposals, which could arise from transport-related noise, air quality or related impacts.

- v) Date relating to the Noise Assessment is out of date;
- vi) The cumulative impact of other nearby housing proposals should be considered in the Environmental Statement;
- vii) Details of the proposed ponds should be from part of this application and not be left until the Reserve matters stage;
- viii) Full levels details are required to fully consider the drainage issues;
- ix) Given the scale of development proposed, a phasing plan should be submitted to ensure that major infrastructure provision and environmental mitigation is provided in time to meet the needs and impacts arising out of the development;
- x) Further archaeology surveys are required. This view is supported by West Yorkshire Archaeological Advisory Service.

5.6 A total of 35 individual representations have been received in relation to the application, together making the following points:

- Inadequate infrastructure and local amenities;
- Proposal is 'side-stepping' the plan making process;
- Approval of this application would undermine work undertaken across Leeds to prepare the LDF;
- Site is isolated and in an unsustainable location, will result in a heavy reliance on the private car;
- Unsuitable site for housing, will have high levels of noise due to the proximity with M62;
- Local highway network cannot cope with the traffic of 770 houses;
- Years of disruption caused by building works;
- Proposal erodes the Green Belt which exists between Morley and Tingley;
- Local health facilities cannot cope with 2000 + new patients;
- Development of this site is premature in the plan-making process;
- Impact on demand local schools;
- Green site sites should not be developed;
- Impact / loss on wildlife;
- People use for the site for horse riding and recreational activities;
- Impact on property prices;

- Existing properties situated along Dunningley will be hemmed in by a modern housing estate;
- The site is occupied by badgers and other protected species.

5.7 61 batch letters of objection have also been received. The points raised in these objections are highlighted below:

- PAS site should not be developed. Development is premature;
- Local roads are already congested at peak times. An additional 1000 + traffic movements at peak time will lead to greater congestion;
- Site is not sustainable. Both primary and secondary schools nearby are full;
- Local health centres are already full and cannot cope with further patients;
- Site functions as Green Belt between Tingley and Morley and prevents these communities from merging.

6.0 Consultation responses

Statutory

- 6.1 Highways: The Transport Assessment submitted by the developer is flawed and does not include an acceptable assessment of the development impacts. The Transport Assessment fails to accurately reflect existing conditions experienced on the local highway network, through the use of aged data. This approach does fail to properly take account nearby committed development. It also uses inappropriate trip rates and fails to accurately assess the impact of the proposed development on the local highway network.
- 6.2 In addition, no accident analysis is provided within the Transport Assessment. No road safety audits have been undertaken in respect of the proposed site access points.
- 6.3 The appeal site also currently falls notably and unacceptably short of the Council's Accessibility Standards. The site is not considered to be sustainable in transportation terms.
- 6.4 It is considered that a significant number of future residents would be overly reliant on the use of the private car. The isolated location of the appeal site is evident in the limited public transport provision, and surrounding pedestrian/cycle infrastructure.
- 6.5 A revised Transport Assessment that suitably reflects an agreed scope is needed before Highways may fully understand the transport implications of the proposal. The application should not be approved until such an assessment has been carried out, submitted and reviewed.
- 6.6 Highways England: Upon review of the Transport Assessment and Travel Plan Highways England have identified a number of areas that required further work

to fully understand the impact of the development on the Strategic Road Network (SRN) junctions. An initial holding direction was issued on 17 November 2016. A further holding direction was issued on 23 March 2017. This places a holding direction on the application until 31 August 2017.

- 6.7 Environment Agency: No objections subject to the imposition of conditions providing for remediation, surface water drainage and details of ground penetration.

Non-statutory

- 6.8 West Yorkshire Combined Authority: The accessibility criteria detailed in the Core Strategy stipulates that new housing developments should be located within 400 metres of a bus service that offers a 15-minute frequency to a key destination, namely Leeds, Bradford or Wakefield.
- 6.9 WYCA have investigated the potential to improve public transport options for the site by a diversion of Arriva service 117 - which provides an hourly service between Leeds and Wakefield. In principle, Arriva consider that this may be achievable within the existing operational workings of the service. Arriva has also communicated its willingness to explore an opportunity to enhance the frequency of the service as between the appeal site and Leeds. This would however need to be funded by the appellant. This is likely to equate to 1 or 2 buses per annum in the 117 cycle. This would amount to £150k per bus, per annum (gross). Based upon 5 years funding, this would be a total contribution of £750k to £1.5m.
- 6.10 The proposed development should also be conditioned to provide funding for bus shelters with installed real-time passenger information displays. These should be placed within the appeal site at appropriate positions to reflect the diverted service. It is suggested that 2 shelters would be required, installed with real-time information displays at a total cost of £80k.
- 6.11 To ensure that sustainable transport can prove a realistic alternative to the car, the developer needs to fund a package of sustainable travel measures. It is strongly recommended that the developer contributes towards sustainable travel incentives to encourage the use of public transport and other sustainable travel modes through a sustainable travel fund. The fund could be used to purchase discounted MetroCards for all or part of the appeal site. Based upon our current RMC scheme, there is an option for the developer to purchase (in bulk) heavily discounted Residential MetroCards (circa 40% discount) as part of a wider sustainable travel package.
- 6.12 Other uses could acceptably include personalised travel planning, car club use, cycle purchase schemes, car sharing promotion, walking / cycling promotion and/or further infrastructure enhancements that are developed as the development commences.
- 6.13 The payment schedule, mechanism and administration of the fund and RMC scheme would be agreed with LCC and WYCA and detailed in a planning condition or S106 agreement. The contribution appropriate for the proposed development would be £370,562.
- 6.14 TravelWise Team: In accordance with the Travel Plans SPD the Travel Plan should be included in the invited Section 106 Agreement with the following:
- i) Leeds City Council Travel Plan Review fee of £5,870

- ii) Bus service improvements
- iii) Provision of a residential travel plan fund of £370,562.50

- 6.15 A Full Residential Travel Plan is appropriate for this development at outline application/approval stage. The Travel Plan should be revised accordingly.
- 6.16 Contaminated Land: The appeal site has been the subject of a number of potentially contaminative land uses, the proposed development is sensitive and the phase 1 desk study report concludes that a phase 2 site investigation is necessary. As such, the phase 2 site investigation should have been provided in support of the application. As a minimum, a detailed scope of site investigation should be agreed with the LPA prior to any permission being granted.
- 6.17 Coal Authority: No Coal Recovery Report has been submitted in support of the appeal proposal. However, the Coal Authority acknowledges that the appeal site lies outside of the defined Development High Risk area and is mindful that the future market for coal in the UK is declining. No objection.
- 6.18 Environmental Protection Team: Conditions are recommended to deal with construction activity delivery hours, Statement of Construction Practice, noise and dust control.
- 6.19 Air Quality Management Team: No objection. The air quality assessment submitted with this application indicates that air quality at this site is not at risk of falling below the relevant UK standards and air quality objectives are unlikely to be breached elsewhere as a result of traffic arising from the development. It is welcoming to see the provision made in the Travel Plan for electric vehicle charging points for each dwelling with a private parking space and 10% of communal parking spaces. This level of provision is in accordance with the Parking Policy SPD and paragraph 35 of the NPPF.
- 6.20 Flood Risk Management: No objection subject to the imposition of conditions dealing with surface water drainage, and until feasibility studies have been conducted with regard to the infiltrations drainage methods.
- 6.21 Yorkshire Water: No objection, subject to conditions. Yorkshire Water was involved with the application at the pre-application stage. Conditions relate to feasibility study, separate systems of drainage and no piped discharge.
- 6.22 Nature Conservation: A revised Masterplan should be submitted prior to determination to show “Deanshaw Beck to be reopened in a natural channel and ecological enhancements to both sides to enhance the Leeds Habitat Network” – details of the reopened Deanshaw Beck channel and buffer to either side could then form a Reserve Matters condition. Recommend other conditions which relate to Biodiversity Protection for Habitats and Species, Biodiversity Enhancements and Management for Habitats and Species, Biodiversity Protection (Where non-native invasive species confirmed as present) and Biodiversity General Enhancements – Bats and birds.
- 6.23 Public Rights of Way: Public Footpath No.69 Morley runs to the north east of the appeal site as shown on the attached plan. The development is likely to see an increase in use by the public of the public footpath no.69 Morley and as such, the developer should provide an improved (crushed stone/ metalled) surface to a specification approved by the Public Rights of Way Section.

- 6.24 Public Footpath No.68 Morley appears to go through the centre of the appeal site situated within the green corridor which should be 4 metres wide, a 2 metres wide footpath within a metre wide verge at either side of the footpath.
- 6.25 Public Footpath No.71 Morley is shown to run along its original route from the south of the appeal site and then alongside the estate road. As long as the footpath is separated from the estate road until it meets with Public Footpath No.68, there is no objection. Public Footpath No.65 Morley is shown on the south western corner of the site and meets the A653 Dewsbury Road. This footpath needs to remain on its original line and not be narrowed.
- 6.26 West Yorkshire Archaeology Advisory Service: The appeal site comprises a large area of agricultural land with archaeological potential. Through the Environmental Impact Statement the appellant's agents have identified the site's known archaeological potential and recommended archaeological evaluation (Chapter 9 Archaeology and Cultural heritage p18). The appeal site is known to include:
- i) Possible medieval earthwork remains at Dunningley Hill (West Yorkshire Historic Environment Record PRN 4535 and a Class III area of Archaeological Interest). Dunningley was the home of the 16th century surveyor and cartographer Christopher Saxton. The buildings present at Dunningley Hill are of 18th century and later date;
 - ii) The site of a Second World War heavy anti-aircraft battery (PRN 6425 a Class III area of Archaeological Interest);
 - iii) Railway lines constructed by the Leeds, Bradford and Halifax Railway and the Beeston & Batley Railway and Tingley station;
 - iv) Earthworks of medieval agriculture and possible evidence of tanning (PRN 4553 and a Class III area of Archaeological Interest).
- 6.27 Archaeological remains of earlier periods may also be present within the appeal site but is currently masked by later agricultural regimes and railways. Remains of the later prehistoric and Roman periods are possible and the suggestion that Tingley was an early medieval meeting place may indicate that settlement of this date could be present within the appeal site. A possible meeting site mound has been suggested to be located, but not confirmed, to the south of the A650 at Tingley Hall Rise. Artefacts of an appropriate date have been found in this location (PRNs 4149 and 13874).
- 6.28 It is recommended that a planning decision be deferred on grounds that the LPA requires further information in order to reach an informed decision, until the results of the evaluation have been received and assessed by WYAAS, as your advisors on archaeological matters. However, if the LPA is minded to grant permission, we would recommend that the above works are secured by suitable condition.
- 6.29 Education: The proposed development would generate demand for 28 places per year at primary level (equivalent to 1 form of entry), and 15 places for secondary level (equivalent to 0.5 form of entry). There are four primary schools that would potentially constitute a reasonable school place offer based on the walking distance from the appeal site postcode. This includes Blackgates Primary, Westerton Primary, Middleton Primary and Westwood Primary. Of these four schools only Blackgates has any spare capacity, with projections

indicating that it will have capacity of approximately 4 – 7 places per year. Demand for secondary school places in South Leeds is expected to outstrip supply over the coming years. The Cockburn Academy led Free School application, if approved, would provide an additional 900 school places within the vicinity, however it is currently unknown when a decision will be made on this.

- 6.30 Primary School: It is estimated that Blackgates Primary School would be the only primary within walking distance of the appeal site that could currently accommodate additional children. Our projections indicate that this school may only have spare capacity for around 5 or 6 primary age children per year group until 2020/21, or the estimated demand generated by only 100-150 dwellings, far below the level required by virtue of the appeal proposed (in primary age terms).
- 6.31 Secondary School: It is projected that all secondary schools within a 3 mile radius of the appeal site would be unable to meet the additional demand generated by the proposed development. If the proposal is approved then CIL contributions would be required to contribute toward the costs of creating additional capacity through the expansion of existing schools and/or construction of new schools.
- 6.32 The isolated location of the appeal site alongside a busy ring road, roundabout and the M62, also reinforces the sustainability objection. The location proposed makes it problematic for Children and Families Services in offering school places as there is a need to identify and provide for safe walking routes. The provision of any even arguably adequate walking route between the site and the school would give rise to an unreasonable walking distance. Consequently, any offer of a school place would then be rendered unreasonable.
- 6.33 The site is also unattractive in terms of a new school provision as the capacity of 770 dwellings would yield an estimated 27 children per year group which is less than a single form of entry whilst, children resident within other local areas may suffer the same issue with unacceptable safe walking routes.
- 6.34 The connection at Thorpe Road may provide access to Middleton Primary and the new Acre Mount Free School, which is scheduled to open in September 2018. Middleton Primary School projections indicate that they will not have spare capacity for the foreseeable future. There is also a basic need and new housing related pressure in the Middleton ward. The new Free School may, at best, offer small capacity but even this will be uncertain before the school opens. It is anticipated that any offer this Free School may make will be far less than that required to meet the needs of this site due to the existing demand for additional places in this area. Schools places have been considered fully in respect of the highly advanced Site Allocation Plans and delivery of housing at this location would affect the individual and cumulative assessments therein.

7.0 Relevant Planning Policies

The Development Plan

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the statutory development plan (Development Plan) unless material considerations indicate otherwise.

7.2 The proposed development has been considered in the context of the detailed policies comprised within the following documents, which together comprise the Development Plan;

- i) The Leeds Core Strategy (Adopted November 2014) (CS);
- ii) Saved UDP Policies (2006), included as Appendix 1 of the CS;
- iii) The Natural Resources & Waste Local Plan (NRWLP, Adopted January 2013).

7.3 The following CS policies are particularly relevant:

- Spatial policy 1 Location of development;
- Spatial policy 6 Housing requirement and allocation of housing land;
- Spatial policy 7 Distribution of housing land and allocations;
- Spatial policy 8 Economic Development Priorities;
- Spatial policy 9 Provision for employment land;
- Spatial policy 10 Green Belt;
- Policy H1 Managed release of sites;
- Policy H2 New housing development on non-allocated sites;
- Policy H3 Density of residential development;
- Policy H4 Housing mix;
- Policy H5 Affordable housing;
- Policy H8 Housing for independent Living;
- Policy P9 Community facilities and other services;
- Policy P10 Design;
- Policy P12 Landscape;
- Policy T1 Transport Management;
- Policy T2 Accessibility requirements and new development;
- Policy G1 Enhancing and extending green infrastructure;
- Policy G4 New Greenspace provision;
- Policy G8 Protection of species and habitats;
- Policy G9 Biodiversity improvements;
- Policy EN2 Sustainable design and construction;

- Policy EN5 Managing flood risk;
- Policy ID2 Planning obligations and developer contributions.

7.4 The CS sets out a need for 70,000 new homes up to 2028 and identifies the main urban area as the prime focus for these homes alongside sustainable urban extensions and delivery in major and smaller settlements.

7.5 It advises that the provision will include existing undelivered allocations (paragraph. 4.6.13).

7.6 CS Policy SP7 sets out that the housing target for the Outer South West Housing Market Characteristic Area is 7,200 units.

Site Allocations Plan (SAP) - Submission Draft

7.7 The Submission Draft/SAP was submitted to the Secretary of State for Examination on 5 May 2017. The Council anticipate that the Examination hearing sessions will take place in October and November of this year.

7.8 For the purposes of the approach to be taken to emerging planning policy and paragraph 216 NPPF, the SAP is considered to be at a highly advanced stage.

7.9 Furthermore, also for the purposes of paragraph 216 NPPF, the policies of the SAP relevant to housing and employment are considered to disclose a high degree of consistency with the NPPF.

7.10 Also, the extent to which unresolved objections to these relevant policies fall to be considered at the Examination, it is not considered that these are of any particular significance.

7.11 Consequently, it is considered that significant weight can properly be given to relevant emerging SAP policies.

7.12 The SAP proposes to retain a larger parcel of land within which the application site sits, as Safeguarded Land under policy HG3-23. The relevant SAP policies are as follows:

Safeguarded Land

7.13 As directed by Policy SP10 of the Adopted Core Strategy, the SAP needs to create and/or maintain designations for safeguarded land to provide a pool of land for housing and employment far beyond the plan period. The justification to Policy SP10 notes: "*Land not appropriate for housing might be needed for employment allocations or retained as future PAS in the LDF*". Paragraph 2.60 of the Submission SAP notes that "*Policy HG3 designates sites to be protected as safeguarded land (for both housing and employment)*". Policy HG3 notes that:

POLICY HG3 – SAFEGUARDED LAND

THE SITE ALLOCATIONS PLAN DESIGNATES SITES TO BE SAFEGUARDED FROM DEVELOPMENT FOR THE PLAN PERIOD (TO 2028) TO PROVIDE A RESERVE OF POTENTIAL SITES FOR LONGER TERM DEVELOPMENT POST 2028 AND PROTECT THE GREEN BELT. THESE ARE SHOWN ON THE POLICIES MAP. IN OUTER SOUTH WEST THE SITES DESIGNATED AS SAFEGUARDED LAND ARE:

Plan Ref	Address	Area ha	Capacity
HG3-21	Gelderd Road (land to the north of), Wortley LS12	11.6	315
HG3-22	Manor House Farm, Churwell	2.9	80
HG3-23	Tingley Station	43.1	1,050
HG3-24	Bradford Road (land off) , East Ardsley WF3	9.7	218
HG3-25	New Lane, East Ardsley	3.8	90
Safeguarded land total:			1,753

7.14 Safeguarded land is that which has been removed from the Green Belt to meet longer term development needs for both housing and employment.

7.15 The SAP has sought to meet the Core Strategy requirement of safeguarded land equivalent to 6,600 homes (albeit it is observed that safeguarded land could be released to meet needs for both housing and employment in the long term).

Housing Allocations in Outer South West

7.16 The indicative target for the Outer South West, as set out in the CS, is 7,200 units. The target does not mean that land for 7,200 homes needs to be found as there are already 2,648 identified homes with planning permission or comprised within existing allocations.

7.17 The residual target is 4,552 homes.

7.18 In line with Policy H1 of the CS on the managed release of sites, the SAP allocates **1,120 homes** in Phase 1 on 20 sites, **1,396 homes** in Phase 2 on 5 sites and **1,805 homes** in Phase 3 of the Plan on 9 sites, including a large allocation HG2-167 for 619 homes at Old Thorpe Lane, Tingley.

7.19 This provides a total supply from allocations of 4,321 homes, which together with identified homes brings the total SAP allocations to 4,321 homes (marginally under the indicative CS target, by 231 homes).

7.20 It should also be noted that permission for up to 299 dwellings at Bradford Road (land off), East Ardsley was granted on appeal by the Secretary of State in December 2016.

Unitary Development Plan (UDP) policies of relevance are listed, as follows:

- GP5: General planning considerations;

- N23/N25: Landscape design and boundary treatment;
- N24: Development proposals abutting the Green Belt;
- N29: Archaeology;
- N34: protected Areas of Search;
- N37: Special Landscape Area (to the north east of the site).
- BD5: Design considerations for new build;
- T7A: Cycle parking.

Natural Resources and Waste Local Plan (NRWLP)

7.21 The Natural Resources and Waste Local Plan (NRWLP) was adopted by Leeds City Council on 16 January 2013 and is part of the Development Plan. The NRWLP sets out where land is needed to enable the City to manage resources: e.g. minerals, energy, waste and water over the next 15 years, and identifies specific actions which will help use natural resources in a more efficient way. Policies relating to drainage, land contamination and coal risk and recovery are relevant.

- Policy General 1 – Sustainable Development;
- Policy Air 1 – Management of Air Quality Through Development;
- Policy Minerals 3 – Mineral Safeguarded Area – Surface Coal;
- Policy Water 1 – Water Efficiency;
- Policy Water 2 – Protection of Water Quality;
- Policy Water 6 – Flood Risk Assessments;
- Policy Water 7 – Surface Water Run Off;
- Policy Land 1 – Contaminated Land;
- Policy Land 2 – Development and Trees.

Supplementary Planning Guidance / Documents:

7.22 Street Design Guide (SPD)

7.23 This document was adopted in August 2009 and includes guidance relating to highway safety and design.

Sustainable Design and Construction (Building for Tomorrow Today) (SPD)

7.24 This document was adopted in August 2011 and provides guidance on sustainable construction.

Designing for Community Safety (SPD)

7.25 This document was adopted in May 2007 and provides advice on designing out crime.

Travel Plans (SPD)

7.26 This document was adopted in February 2015 and provides advice on when Travel Plans are required and how to undertake one.

Public Transport Improvements and Developer Contributions (SPD)

7.27 This document was adopted in January 2008 and advises how development should be planned in conjunction with public transportation infrastructure improvements. Although contributions for these have now been superseded by CIL the guidance retains relevance. The document is presently being revised.

Leeds Parking Policy (SPD)

7.28 This document was adopted in January 2016 and advises on parking standards for new development.

Neighbourhoods for Living: A Guide for Residential Design for Leeds (SPG)

7.29 This document was adopted in December 2003 and provides advice on creating well planned and designed developments.

Greenspace Relating to New Housing Development SPG4

7.30 This document was adopted in July 1998 and provides general guidance on the provision of greenspace in new residential development. Although Core Strategy policy G4 now covers the amount of greenspace provision within a development the SPG still contains useful guidance.

S106 Contributions for School Provision SPG11

7.31 This document was adopted in February 2001 and provides guidance on education contributions. Education contributions are now sought under CIL and not under Section 106. However the guidance remains of some relevance.

Sustainable Urban Drainage SPG22

7.32 This document was adopted in July 2004 and provides advice on minimising flood risk and dealing with drainage in new developments. This should be read in conjunction with Minimum Development Control Standards for Flood Risk, last updated May 2007.

Greening the Built Edge SPG25

7.33 This document provides advice on the landscape treatment of the edge of development adjacent to open land.

National Planning Policy Framework (NPPF)

7.34 The NPPF compliments the requirement under section 38(6) of the Act that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.

The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

- 7.35 The NPPF sets out the Government's planning policies for England and how these are expected to be applied, only to the extent that it is relevant, proportionate and necessary.
- 7.36 The overarching policy of the Framework is the presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. The presumption in favour of sustainable development is the 'golden thread' that should run through both plan-making and decision-taking.
- 7.37 Paragraph 14 NPPF provides, specifically in the context of decision-taking, that development proposals that accord with the development plan should be approved without delay, and where the development plan policies are out of date etc., planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (or specific policies in the NPPF indicate development should be restricted).
- 7.38 The approach taken by the LPA to, and application of, paragraph 14 of the NPPF, is outlined below.
- 7.39 First, for the purposes of paragraph 14 and decision-taking, it is considered that the proposed development does not accord with the Development Plan. Indeed, multiple and significant conflicts arise, as confirmed by the terms of the suggested reasons for refusal (as stated above). This is therefore not a case in which planning permission should be approved "without delay".
- 7.40 Separately, there is a Development Plan conflict that arises with saved UDP policy N34 (protected areas of search) which applies to the appeal site.
- 7.41 It is separately of note that the effect of this safeguarding allocation is purposely carried through into emerging policy under the SAP.
- 7.42 Second, for the purposes of decision-taking under paragraph 14, the LPA notes paragraph 49 of the NPPF which advises that housing applications should be considered in the context of the presumption in favour of sustainable development, where relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Whilst the LPA is unable to demonstrate a five-year supply of deliverable housing sites (with the shortfall in housing land also having duly been taken into account by the LPA), meaning that any relevant policies for the supply of housing should not be considered to be up-to-date for the purposes of paragraph 14, nonetheless the proposed development does not amount to sustainable development for the purposes of positively applying the decision-taking presumption under paragraph 14.
- 7.43 The conclusion that the proposed development does not amount to sustainable development is had especially with regard to the environmental, economic and social dimensions of sustainability, as they are defined under paragraph 7 the

NPPF, etc. In terms of the economic role, the appeal site is not the appropriate location for residential development (especially that of such a significant scale) which will potentially displace general employment uses, which will in turn meaningfully support economic growth and the local and wider economy.

- 7.44 Further and in terms of the social role, the residential development of the appeal site (again, especially on such a significant scale) will not be adequately accessible or responsive to community (or wider) transport or accessibility demands.
- 7.45 Finally in terms of the environmental role, a large area of the site is classed as good quality agricultural land, the loss of which could potentially harm future food production roles.
- 7.46 The LPA of course readily acknowledges that the appeal proposal promotes a significant quantum of housing and whilst this provision is to be welcomed in and of itself (as is the case in each housing scheme, especially in the absence of a five-year housing land supply), when viewed in the context of the proposed development when taken as a whole and considered on its merits, it is clearly neither sustainable nor acceptable.
- 7.47 Third, this is therefore a case in which, ultimately, any grant of permission would give rise to (conspicuous) adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole (and obviously so), applying paragraph 14 of the NPPF.
- 7.48 Separately, specific policy for the purposes of paragraph 85 of the NPPF indicates that the proposed (permanent) development should be restricted (and should not be approved, at the present time).
- 7.49 In the result therefore, the proposed development is not sustainable in NPPF terms.
- 7.50 As such, in terms of the proposed development specifically, no presumption positively applies in favour of approval.
- 7.51 These adverse impacts reflect the matters referenced in the suggested reasons for refusal that are put to the City Plans Panel, together with the significant conflicts with Development Plan UDP policy, obvious sustainability deficiencies (considered in the light of the NPPF), and significant conflicts with emerging SAP policy.
- 7.52 Fourth, *alternatively* with regard to paragraph 14 of the NPPF, were the proposed development considered either *not* to engage or conflict with, relevant policies for the supply of housing (such that by operation of paragraph 14 the decision-taker would *not* need to turn to decide whether in light of one or more out-of-date policies the grant of permission would give rise to adverse impacts that would significantly and demonstrably outweigh the benefits etc.), it fundamentally remains the case that the proposed development is eminently not sustainable.

- 7.53 Accordingly, the decision-taking presumption under paragraph 14 does not apply in the particular circumstances to positively favour the appeal proposal.
- 7.54 Fifth, further and in any event, even were the decision-taking presumption under paragraph 14 to positively favour the appeal proposal (which it does not), for the purposes of section 38(6), the LPA nonetheless concludes that this material consideration would not prove significant enough as to indicate that planning permission should be granted, given the multiple, conspicuous and very harmful breaches with the Development Plan and having regard to the objectionable prematurity of the proposal in PPG terms (see further below).
- 7.55 As above, this is also a case in which emerging policy under the SAP (which strategically carries forward the above UDP-secured allocations, and which further provides for future safeguarded land) means that the proposed development is objectionably premature.
- 7.56 The NPPF also identifies 12 core planning principles (paragraph 17), including that planning should:
- i) Proactively drive and support sustainable economic development to deliver homes;
 - ii) Seek high quality design and a good standard of amenity for existing and future occupants;
 - iii) Conserve and enhance the natural environment;
 - iv) Encourage the effective use of land by reusing land that has been previously developed (brownfield land);
 - v) Promote mixed use developments and encourage multiple benefits from the use of land in urban areas; and
 - vi) Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be, made sustainable.
- 7.57 By paragraph 32 of the NPPF, it is advised that developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment, and that decision-taking should properly take account of whether: (i) the opportunities for sustainable transport modes have been taken up; and (ii) the residual cumulative impacts of the development are severe.
- 7.58 By paragraph 35 of the NPPF, opportunities for sustainable transport modes should be exploited. Where practical, priority should be given to pedestrian and cycle movements and to ensuring access to high quality public transport services. Where practical, safe and secure layouts should be provided which minimise conflicts between traffic and cyclists or pedestrians.
- 7.59 The safety of the road user is also a general consideration which naturally underpins the promotion of sustainable transport and which must fall to be considered, for the purposes of Chapter 4 of the NPPF. Safety is expressly referenced in the NPPF in the context of the support that should be given by roadside facilities: paragraph 31.

- 7.60 The Government attaches great importance to the design of the built environment. Section 7 (paragraphs 56-66) provides that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. It is important that design is inclusive and of high quality. Key design principles include:
- i) Establishing a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
 - ii) Optimising the potential of the site to accommodate development;
 - iii) Respond to local character and history;
 - iv) Reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - v) Development to be visually attractive as a result of good architecture and appropriate landscaping.
- 7.61 Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 7.62 Paragraph 111 of the NPPF advises that planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land;
- 7.63 Paragraph 123 of the NPPF and related planning guidance advises in part that planning decision-taking should avoid noise from giving rise to significant adverse or, in a given case, acceptably mitigate and reduce what would otherwise be objectionable adverse impacts on health and/or quality of life as a result of new development.
- 7.64 This compliments the guidance contained in the Noise Policy Statement for England (NPSE) produced by DEFRA in 2010 (referenced at footnote 27 to paragraph 123 of the NPPF) and the guidance expressed in NPPG Noise (Paragraph 001; Ref ID 30-001-20140306: Paragraph 012 Reference ID 30-012-20140306 [Revision date: 6 March 2014]). The further detail of this noise guidance, as it applies in respect of the proposed development, is not rehearsed here but will be put before Members.
- 7.65 Policy at Annex 1 to the NPPF (Implementation) includes paragraph 215 which is to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given. The degree of consistency between relevant, existing policies and the proposed development has been appropriately considered.
- 7.66 At paragraph 216 the NPPF also advises on the weight to be given to emerging plans, which is of relevance to the SAP (of which there is a Submission Draft, and which is at a very advanced stage following four years of detailed assessment and consultation, including with local people):

7.67 As above, from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- i) the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- ii) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- iii) the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Online Planning Practice Guidance:

7.68 Further to the NPPF, appropriate regard has been had to the PPG, including to the section advising in respect of the circumstances in which it may be justifiable to refuse planning permission on the grounds of prematurity (in the present case, with regard to the SAP).

8.0 Main issues

- i) Principle of development
- ii) Site Allocations Plan
- iii) National Guidance – Five year Supply
- iv) Highways and Transportation
- v) Noise
- vi) Education
- vii) Affordable Housing
- viii) Ecology
- ix) Drainage and flood risk
- x) Other matters
- xi) Section 106 obligations and CIL

9.0 Appraisal

Principle of development

Site context:

- 9.1 The site is currently allocated as a Protected Area of Search (known as safeguarded land in the NPPF) through (saved) Policy N34 of the UDP Review. The release of this PAS site for housing is contrary to Policy N34 of the UDP Review.
- 9.2 Development of the PAS site would unacceptably undermine the plan-led system and be contrary to bullet point 4 of paragraph 85 of the NPPF which states that *“planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review, which proposes the development”*.
- 9.3 Policy N34 of the UDP states:

N34: WITHIN THOSE AREAS SHOWN ON THE PROPOSALS MAP UNDER THIS POLICY, DEVELOPMENT WILL BE RESTRICTED TO THAT WHICH IS NECESSARY FOR THE OPERATION OF EXISTING USES TOGETHER WITH SUCH TEMPORARY USES AS WOULD NOT PREJUDICE THE POSSIBILITY OF LONG TERM DEVELOPMENT

14 Tingley Station

- 9.4 The general extent of Green Belt and the boundaries of the Green Belt around Leeds were defined with the adoption of the UDP in 2001. These were not changed in the UDP Review 2006.
- 9.5 The aim of Policy N34 is to ensure the necessary long-term endurance of the Green Belt. The definition of its boundaries was accompanied by designation of Protected Areas of Search (safeguarded land) to provide land for longer-term development needs.
- 9.6 Given the emphasis in the UDP on providing for new development within urban areas it was not envisaged that there will be a need to use any such safeguarded land during the plan period. However, it is retained both to maintain the permanence of Green Belt boundaries and to provide some flexibility for the City’s long-term development for both housing and employment land. The UDP further sets out in supporting text that the suitability of the protected sites for development will be comprehensively reviewed as part of the preparation of the Local Development Framework (Local Plan). Meanwhile, it is intended that no development should be permitted on the appeal site that would prejudice the possibility of longer-term development, and any proposals for such development will be treated as a departure from the Plan.
- 9.7 The (highly advanced) SAP proposes to retain N34.14 Tingley Station as Safeguarded Land, under policy HG3-23.
- 9.8 This follows detailed comparative site assessments, technical evidence base cumulative and synergistic implications of development and consideration of consultations undertaken as part of the SAP process. This is in accordance with Core Strategy Policy SP10 to create and/or maintain designations for safeguarded land to provide a pool of land for housing and employment for beyond the plan period. The justification to Policy SP10 notes that *“Land not appropriate for housing might be needed for employment allocations or retained as future PAS in the LDF”*. Paragraph 2.60 of the Submission SAP notes that *“Policy HG3 designates sites to be protected as safeguarded land (for both housing and employment)”*.

- 9.9 The Core Strategy (CS) outlines the Spatial Development Strategy through a series of strategic policies to promote and deliver development. The strategy identifies which areas of the District play key roles in delivering development and ensuring that the distinct character of Leeds is enhanced.
- 9.10 In considering future development, the unique and distinctive aspects of Leeds fall to be considered and these features should be preserved and enhanced. It is considered that the historic pattern of development is key to the delivery of future growth and will be used to guide future development. This will ensure that the majority of growth is focused within the Main Urban Area. Other established settlements will also benefit from new development.
- 9.11 The delivery of the strategy will entail the use of brownfield and greenfield land and in exceptional circumstances only (which cannot be met elsewhere), the selective use of Green Belt land, where this offers the most sustainable option.
- 9.12 The Settlement Hierarchy is the framework to guide future development opportunities and is set out in Core Strategy Policy SP1. The hierarchy prioritises the location of future development within, and adjacent to, urban areas. The hierarchy acknowledges that there are still development opportunities within settlements that should be prioritised and enables regeneration opportunities to be realised, through phasing of land opportunities over the period of the Strategy.

National Guidance – Five Year Supply

- 9.13 The NPPF advises that LPAs should identify and update annually a supply of specific deliverable sites to provide five years' worth of housing supply against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Deliverable sites should be available now, be in a suitable location and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. Sites with planning permission should be considered deliverable until permission expires subject to confidence of delivery.
- 9.14 The LPA currently lacks a 5 year deliverable supply of housing land, and as above, under paragraphs 14 and 49 of the NPPF, any relevant policies for the supply of housing should be considered to be out of date.
- 9.15 Even in this event however, they remain relevant under the Development Plan for decision-taking pursuant to section 38(6) of the 2004 Act; it being a matter of the weight to be attached to these relevant policies.
- 9.16 It is considered that the reasons for refusal of this application are not outweighed by the lack of a five year supply of land. Further to the above discussion of paragraph 14 of the NPPF and the view that the proposed development would not be sustainable there would be harm to national and local policy from an approval of this development given its unsuitability for housing. In particular and significant onsite constraints, including those evidenced from previous planning applications.
- 9.17 Therefore, any housing development on the appeal site would be unlikely to contribute swiftly to housing land supply in any event, and well after the sites allocated and identified in the HMCA, under the SAP.
- 9.18 For the purpose of paragraph 216 of the NPPF the SAP is at a very advanced stage of preparation. It was submitted to the Secretary of State for Examination

on 5 May 2017. The expectation is that the Examination in public will take place in the Autumn 2017 with likely adoption of the SAP in early 2018.

- 9.19 For the purpose of paragraph 216 of the NPPF also, the relevant policies of the SAP are considered to disclose a high degree of consistency with the NPPF.

Core Strategy

- 9.20 When assessing the site against policies contained within the adopted CS and the NPPF, it is clear that the proposal is contrary to both policy documents. The site suffers from a complete lack of coherence with the settlement hierarchy as set out within Strategic Policy 1 of the CS, as the development doesn't relate to existing patterns of development. SP1 reads:

“To deliver the spatial development strategy based on the Leeds settlement hierarchy and to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance of brownfield and greenfield land, the distribution and scale of development will be in accordance with the following principles:

- i) The largest amount of development will be located in the Main Urban Area and Major Settlements. Smaller Settlement will contribute to development needs, with the scale of growth having regard to the settlement's size, function and sustainability,***
- ii) In applying (i) above, the priority for identifying land for development will be as follows:***
- Previously developed land and buildings within the Main Urban Area/relevant settlement,***
 - Other suitable infill sites within the Main Urban Area/relevant settlement,***
 - Key locations identified as sustainable extensions to the Main Urban Area/relevant settlement, (inter alia)”***

- 9.21 The proposal is not located within, or as an extension to, the Main Urban Area. It fails to comply with policy SP1(i) and fails to ensure that housing development is being delivered to take advantage of existing services (see paragraph 9.48 and 9.132 - 9.134 as regards schools delivery) and high levels of accessibility (see paragraphs 9.132- 9.134 as regards poor accessibility credentials).

- 9.22 Not only does the site fail Policy SP1 on a settlement hierarchy basis (criteria (i)) it also fails the more detailed criteria on the priorities for identifying land within or adjacent to such settlements in that the site is neither previously developed land nor considered to form an infill within the main urban area.

- 9.23 This conflict with Policy SP1 was considered as part of the SAP assessments of the application site HG3-23 and concluded that the sites' location between three settlements (Morley, Tingley and Middleton) is one that is isolated by surrounding Green Belt and motorway and therefore lacks connection to the urban area. This is contrary to Core Strategy SP1 strategic growth strategy and the SAP

recommends continuing the site's safeguarded land designation to contribute to a reserve of land with potential for longer term development.

9.24 The remainder of Policy SP1 also sets additional principles for the delivery of other forms of development, such as employment land and sets out that:

“(v) To promote economic prosperity, job retention and opportunities for growth:

- In existing established locations for industry and warehousing land and premises;
- In key strategic* locations for job growth including the City Centre and Aire Valley Urban Eco-Settlement (as shown in the Key Diagram);
- By retaining and identifying a portfolio of employment land in locations primarily within the urban area, maximising the opportunities that the existing services and high levels of accessibility provide to attract new development.”

9.25 The junction of the M62 and A653 (Dewsbury Road) is identified on the CS Key Diagram as a Strategic Location for Job Growth to reflect the location of the established business park at Capitol Park and proposed allocations for general employment to the north. The locality in which the application site sits is therefore considered to disclose comparatively greater consistency with the characteristics of this strategic location for job growth than for housing.

9.26 The appeal site therefore offers a unique potential for large scale general employment land in the longer term because of its location on the M62 junction and its flat topography (suitable for large scale warehousing or manufacturing).

9.27 These characteristics were recognised by the UDP Review Inspector and remain relevant.

9.28 The appeal site would in principle satisfy the requirement of CS Policy EC1: General Employment Land as being a location benefitting from good access to the motorway network.

Schools Infrastructure Provision

9.29 The provision of schools infrastructure is a key element of the Site Allocations Plan. This meets the Government's ambitions as set out in the NPPF. Para 72 states *“The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should ... give great weight to the need to create, expand or alter schools”*.

9.30 CS Policy SP6 sets the strategic framework for the allocation of housing land for the plan period. It states that local facilities are key to the determination of what constitutes a sustainable location:

9.31 Guided by the Settlement Hierarchy, the Council will identify 66,000 dwellings gross (62,000 net) to achieve the distribution in tables H2 and H3 in Spatial Policy 7 using the following considerations:

- 9.32 Sustainable locations (which meet standards of public transport accessibility – see the Well Connected City chapter), supported by existing or access to new local facilities and services, (including Educational and Health Infrastructure):
- i) Core Strategy Policy P9 and its justification in paragraph 5.3.36 and 5.3.37 relate to the provision of new facilities for education. It states that the Allocations Documents will identify a need for new schools where developers will be required to reserve land for education facilities.

Education and Training

- 9.33 An increasing school age population means that Leeds is facing significant pressure to ensure that basic need is met for statutory education.
- 9.34 Educational provision is experiencing significant change with the introduction of Academies and Free Schools. However the duty to ensure all children and young people have a school place remains the responsibility of the Council.
- 9.35 New educational facilities will be required to meet increased demand either through extensions to existing establishments or through the building of new schools in areas of housing growth or adjacent to them.
- 9.36 Applicants are required to reserve land for education facilities where this need is identified in LDF Allocations Documents and contributions will be sought to deliver these facilities.
- 9.37 Similar consideration will also be given to community needs for sufficient early years, childcare, and appropriate youth provision.

Policy P9 Community Facilities and Services

- 9.38 Access to local community facilities and services, such as education, training, places of worship, health, sport and recreation and community centres, is important to the health and wellbeing of a neighbourhood. New community facilities and services should be accessible by foot, cycling, or by public transport in the interests of sustainability and health and wellbeing.
- 9.39 Facilities and services should not adversely impact on residential amenity and should where possible, and appropriate, be located in centres with other community uses.
- 9.40 The scale of the facility or service should be considered in conjunction with the level of need within the community and its proposed location within the Settlement Hierarchy.
- 9.41 Where proposals for development would result in the loss of an existing facility or service, satisfactory alternative provision should be made elsewhere within the community if a sufficient level of need is identified.
- 9.42 The SAP has considered the link between new housing growth and schools provision. This SAP in most cases either secures schools provision via detailed site requirements within large scale housing developments or ensures that such allocations are near to existing provision (which has capacity) or near to new proposed schools.
- 9.43 This finds support in the NPPF which states at paragraph 38: “For larger scale residential developments in particular, planning policies should promote a mix of

uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties".

9.44 From the SAP the following points are relevant:

- i) Whilst safeguarded for the plan period the consideration of school place provision for the plan period and beyond has considered the potential future role of the safeguarded sites. The SAP Schools Background Paper notes in para 4.5 that site HG3-23 Tingley Station, "if used in any future housing allocation would generate additional primary demand which is unlikely to be met by existing schools due to ongoing basic need pressures. Therefore should site HG3-23 come forward for development in the future it would be required to contain a 2FE school to meet the consequent demand generated";
- ii) Schools provision within the wider HMCA involves the allocation of a site for a new school at Bradford Road, West Ardsley so as to serve allocations within and around West and East Ardsley to the south of this application site;
- iii) Alternative more sustainable sites (including HG2-167, Old Thorpe Lane (land at), Tingley) are reflective of a strategic approach to the allocation of schools places within the local area. HG2-167 is located adjacent to an existing primary school and will also make use of the new Bradford Road school.

NPPF: Further

9.45 It is considered that development in the proposed location would be inconsistent with paragraph 70 of the NPPF. This provides that planning policies and decisions "ensure an integrated approach to considering the location of housing, economic uses and community facilities and services".

9.46 The proposed development is also inconsistent with paragraph 38 which seeks that, where practical "key facilities such as primary schools and local shops should be located within walking distance of most properties". Whilst the application proposal includes a convenience store this doesn't redress the fact that residents would have to travel significantly beyond the site to access most services.

9.47 Using a central point postcode of the site and actual travel distance, the site sits 3 miles away from Morley Town centre and 2 miles to Middleton Park Circus higher order local centre and 2 miles to East Ardsley lower order local centre.

9.48 In assessing the wider HG3-23 safeguarded site as part of the Site Allocation Plan, consideration was given to the education needs generated by any future housing development. Whilst this site is not proposed for housing in the SAP, Children's Services considered that should any future housing allocation come forward the scale of development would generate additional primary demand which is unlikely to be met by existing schools due to ongoing basic need pressures and that on-site school provision would be required. In commenting on this application Children's Services have highlighted that there are four schools that would potentially constitute a reasonable school place offer based on the walking distance from the site postcode provided of WF3 1SJ. The

walking distance ranges between 1 and 2 miles. Only one school (Blackgates Primary School, which is 1 mile from the application site) could currently accommodate any additional children. Projections indicate that this school may have spare capacity for around 5 or 6 primary age children per year group until 2020/21, or the estimated demand generated by 100-150 dwellings. This is significantly short of the 770 proposed by the application. The issue regarding Education provision is detailed in paragraphs 9.132 – 9.134.

PAS in the UDP Review and Site Allocation Process

- 9.49 The appeal site lies adjacent to J28 of the M62 and about 4km from J29/42 of the M62/M1. It is bounded by the A653 Dewsbury Road on the west and on the east by the A654 Thorpe Lane.
- 9.50 The appeal site was originally included in the Green Belt in the Morley Local Plan. It was proposed to be released from the Green Belt for its potentially unique attributes for employment development in the long term, and was safeguarded under N34 and N40 of the UDP.
- 9.51 The matter was re-examined during the UDPR, and this site has remained as a PAS site in the UDP Review (2006).
- 9.52 The principle of allocating Tingley Station PAS for residential development was considered but dismissed during the UDP Review. The Inspector made it clear that Tingley Station would not be a suitable housing site.
- 9.53 *“In my view the site would not be a suitable one for residential development; it is greenfield land which is not well integrated with existing communities or particularly close to local services and facilities...I therefore conclude on this issue that the site should not be allocated for housing purposes.”* (Para 17.88, UDPR Inspector’s Report, Page 240).
- 9.54 As part of the SAP process, a detailed assessment was conducted in respect of sites with housing potentials in Morley/East Ardsley/ West Ardsley area. This exercise included Tingley Station. Sites were assessed and compared against their sustainability (see later section on Site Assessment).
- 9.55 The outcome demonstrates that Tingley Station is a less sustainable location for housing development. It is not suitable for housing allocation on its own terms and was considered through the SAP process to be less preferable and sustainable than alternatives in the HMCA.
- 9.56 Employment land supply is allocated on a city-wide basis and not on a market area basis therefore the Outer South West does not have an employment land target.
- 9.57 The current Site Allocations Plan and Aire Valley Leeds AAP (including the Leeds City Region Enterprise Zone) have identified sufficient employment land supply to meet the overall employment land targets set in the CS.
- 9.58 In conclusion therefore, the application site was assessed to be unsuitable for housing in the SAP, was not needed for employment land in this plan period and performs a role as safeguarded land in line with Policy SP10, the appeal site is proposed to remain safeguarded, under policy HG3-23 (see SAP Para 3.10.10).

- 9.59 Section 2 of the SAP explains the need to designate sites as safeguarded land to provide a strategic reserve of land for long-term use post 2028 and protect the Green Belt, some of which may have employment potential (see Para 2.60 of the SAP).
- 9.60 NPPF paragraph 85 defines safeguarded land as land between the urban area and the Green Belt, identified to meet longer term development needs. This could include both housing and employment.
- 9.61 Section 3 Policy HG3 designates sites to be protected as safeguarded land for both housing and employment.

Site Assessment

- 9.62 The SAP site assessment for HG3-23 states that:
- “The site is designated as a Protected Area of Search (PAS) on the existing UDP, not within the Green Belt. The site is located between three settlements (Morley, Tingley and Middleton) and is isolated by the Green Belt and motorway. This lack of connection to the urban area is the main constraint. The site is not required to meet the overall housing requirement over the plan period. There are other more suitable sites preferred for allocation. The site contributes to a reserve of land with potential for longer term development.”*
- 9.63 The site sits inside the Green Belt that separates Middleton, Morley and Ardsley. It is not within or adjacent to the Main Urban Area or the smaller settlements.
- 9.64 The site assessment highlights the lack of connection to the urban area is a fundamental constraint in considering this site for development.
- 9.65 Other sites have been allocated in the SAP in terms of bringing forward housing in this area, these include, among other sites:
- i) HG2-167, Old Thorpe Lane, a 28ha site identified for @619 units under phase 3. This is a large site that is allocated as Green Belt in the UDP, but forms a rounding off of the settlement area for Tingley and Ardsley. It is accessed off Bradford Road, and is close to the services and facilities provided by both East and West Ardsley and Tingley, including Blackgates Primary which is across the road.
 - ii) HG2-171, Westerton Road, East Ardsley, a 8.46 ha site identified for @189 units under phase 3. Again this is currently Green Belt, and located adjacent to the southern residential edge of West Ardsley. This would be close to services located in East and West Ardsley.
 - iii) HG2-169, Haigh Wood, Ardsley, a 11.66 ha site identified for 262 units under phase 2. The site lies within the smaller settlement boundary to the south of Tingley.
 - iv) HG2-170, Off Haigh Moor Road, a smaller 1.56ha site identified for 41 units under phase 3. Site lies on the very edge of the smaller settlement to the far south of Tingley and lies between existing housing development to both north and south. The site is within Green Belt in the UDP, but forms a natural infill.

- v) HG2-168, Haigh Wood, Ardsley, a 4.78ha site identified for 108 units under phase 2. The site lies within the smaller settlement boundary in the centre of Tingley.
- vi) HG2-159, Sissons Farm, Middleton, a 8.19 ha site identified for 222 units under phase 1. This site is a linear rounding off of the existing settlement of Middleton.

9.66 These are the closest allocated sites that fall within the Outer South West Housing Market Characteristic Area, and they all contribute to meeting the planned housing numbers for the area over the Core Strategy period. Policy H1 of the Core Strategy advises that in the event of a lack of a 5 year housing land supply sites from latter phases will be brought forward. This consistent with paragraph 47 of the NPPF.

9.67 The Outer SW area is expected to contribute 7,200 additional units to the housing target over the Plan period, with the sites above contributing 1,441 units approximately. Further to this, outline permission for residential development on site HG3-24 on land off Bradford Road, East Ardsley and this is now progressing to Reserved Matters stage.

9.68 Each of the proposed, omission and safeguarded sites in the Site Allocations Plan has been subject of sustainability appraisal, in line with an up to date Sustainability Framework (which includes up to date national, sub-regional and local plans, policies and programmes). Looking at the Sustainability Appraisal (SA) scores for each of the above sites, HG3-23 discloses one of the worst comparative scores. It comparatively scores “significant negative effects” in the following **3** objectives: SA10 (Greenspace); SA11 (Efficient Use of Land); SA22a (Agricultural Land) and “negative effects” in the following **6** objectives: SA3 (Education); SA4 (Health); SA9 (Community Cohesion); SA12 (Biological and Geological Diversity); SA18b (Air Pollution) and SA19 (Landscape). Giving a negative appraisal in **9** out of 27 objectives.

9.69 As an illustration of the relative unsustainability of the site when assessed against alternatives the SA reveals that of the 6 sites proposed as housing allocations in the SAP the scores are as follows:

- i) HG2-167, Old Thorpe Lane - 5 negative scores
- ii) HG2-171, Westerton Road, East Ardsley - 5 negative scores
- iii) HG2-169, Haigh Wood, Ardsley - 3 negative scores
- iv) HG2-170, Off Haigh Moor Road – 5 negative scores
- v) HG2-168, Haigh Wood, Ardsley – 5 negative scores
- vi) HG2-159, Sissons Farm, Middleton – 5 negative scores

9.70 The SA, the wider evidence base and site assessment, including comments from statutory and other consultees helps determine a range of site requirements to address and mitigate the impacts of housing development upon sustainability objectives for all the allocated sites; for example: need for new local centres (as in HG2-167); local highway network (including requirements to fund mitigation measures and assess cumulative impacts, as in HG2-167); culverts and

watercourses, listed buildings, ecology (as in HG2-168) and details of greenspace (as in HG2-170).

9.71 This headline analysis, above, of the SAP site assessment is provided for context only and sits squarely with the Council's view that detailed examination of choices made through the SAP is a matter for determination through the examination process.

9.72 As Core Strategy SP1 states:

"The largest amount of development will be located in the Main Urban Area and Major Settlements. Smaller Settlements will contribute to development needs, with the scale of growth having regard to the settlement's size, function and sustainability,"

9.73 Tingley, East Ardsley and West Ardsley together form two smaller settlements which will now be connected by the development of site HG3-24. All of the identified allocated sites above are located within or on the edge of this settlement boundary where they form natural infill or rounding off sites. The appeal site is separated from the settlement area by a finger of Green Belt, and by the M62. It has no physical attachment to the settlement and the only direct means of access are via Thorpe Lane, or Dewsbury Road which lie at opposing ends of the site. The appeal site is also distinctly separated from Middleton (which lies within the Main Urban Area boundary) by a thick wedge of Green Belt, and from Morley by Dewsbury Road, which is a busy dual carriageway. The nearest sites to the appeal site are allocated or in use for employment and industrial purposes to the western side of Dewsbury Road (Capitol Park).

9.74 The appeal site does not therefore constitute a natural extension to any of the existing settlements that lie nearby, unlike those that are allocated either through the UDP or the Site Allocations Plan.

9.75 Policy SP6 of the Core Strategy sets out the Authority's policy for allocating housing and considers sustainable locations as a key consideration:

"Sustainable locations (which meet standards of public transport accessibility - see the Well Connected City chapter), supported by existing or access to new local facilities and services, (including Educational and Health Infrastructure)"

9.76 In terms of services and facilities, the nearest train station to the appeal site is at Morley which is 2.2Km away, with the closest bus stop being 0.5Km away on Dewsbury Road, with buses serving Wakefield on the south bound carriageway, and Leeds on the north bound carriageway. Other bus stops require a walk to Tingley, or up Thorpe Lane to Middleton. The nearest primary school, at Blackgates is 1.23Km from near the centre of the site and this entails having to walk along the A654 Thorpe Lane which only has a footpath to one side and is not especially well used by pedestrians. Other services such as those found in town centres will be further away still, with small local facilities found in Tingley and Ardsley, and larger facilities (including Asda) in Middleton and Morley. Neither of these centres would be walkable.

9.77 The appeal site therefore is not sustainably located in relation to access to local facilities and services including education and health and therefore cannot be seen to be compliant with policy SP6 of the Core Strategy.

- 9.78 As previously mentioned, the negative scoring of of the site against criteria SA3 (Education) and SA4 (Health) in the SAP Sustainability Appraisal (paragraph 9.68) provides evidence that the site does not have sustainable access to local facilities and services, (including Educational and Health Infrastructure) and therefore does not comply with policy SP6.
- 9.79 Education officers raise concerns that coupled with the inadequate number of places at local schools, the appeal site's isolated location (as identified above), alongside a very busy ring road, roundabout and the M62 implicitly render it objectionable, not least from a school admissions perspective (i.e. in the identification and provision of a safe walking route to schools within the surrounding area, and to the extent that this may be achieved at all, that this will result in an unreasonable walking distance and unreasonable school place offer).
- 9.80 Adopted CS Policy SP10 notes: *"A review of the Green Belt will need to be carried out to accommodate the scale of housing and employment growth identified in Spatial Policy 6 and Spatial Policy 9, as well as an additional contingency to create new Protected Areas of Search (to replace those in the UDP which will be allocated for future development)"*.
- 9.81 The justification to this policy states in paragraph 4.8.6 that: *"The Leeds Unitary Development Plan designated land outside of the Green Belt for unidentified needs in the future; this is known as Protected Areas of Search (PAS). This land will provide one of the prime sources for housing allocations in the LDF. Which land is identified by LDF Allocation Documents (and in particular the Site Allocations Plan) will depend on how well it meets the strategy for housing distribution, embodied by the criteria in Spatial Policy 6. Land not appropriate for housing might be needed for employment allocations or retained as future PAS in the LDF."* Safeguarded land in Leeds is not simply to provide for future housing needs.
- 9.82 It is considered there some safeguarded site will be more suitable for employment land.
- 9.83 The matter of the Tingley Station PAS site was examined at the UDP Review. The Inspector was then satisfied that Leeds: "has an adequate supply and choice of employment sites" (Para 17.58 UDPR Inspector Report Page 234, and also Para 17.89, Page 240).
- 9.84 Allocation of this site for employment would divert attention away from the Aire Valley Leeds employment development and regeneration (Para 17.89, Page 240).
- 9.85 Whilst the Inspector disagreed that Tingley Station would be required to provide B2 and B8 as a matter of urgency during the UDPR plan period, he also stated that "it would be premature ... to delete PAS land which has been found to have potentially unique attributes for employment development in the long-term." (Para 17.60, Page 235).
- 9.86 The Inspector specifically acknowledged the potential of this site for large scale B2/8 employment. In Para 17.55, he states: "there is a preference and latent demand for employment land in locations along the M62 and M1 corridors and indeed other locations close to the motorway network. This has probably led to industry gravitating to areas such as Wakefield, Normanton and Huddersfield and to parts of South Yorkshire." (Page 234).

9.87 The Inspector also looked at several unique aspects of this site in comparison with AVL in terms of location, size, infrastructure, and also the possible contribution of this site to the Leeds economy in comparisons with Manchester in terms of premises, space and take up of large employment sites. He however concluded that, without the result of a comprehensive Regional Employment Land Survey (RELS) and further analysis of employment land, there was insufficient basis to either allocate it for employment, or to conclude that it would not be required in the long-term for employment use (Para 17.58). In his view, this site should be considered in a proper regional assessment of employment land and involve other planning authorities in the strategic decision, which should then inform the future Core Strategy and the LDF documents. (Para 17.59)

9.88 At paragraph 17.64, the Inspector specifies the suitability of this site for employment over housing: “The site is the only PAS site which has previously been considered for employment purposes and whilst PAS land may be considered for any use if required in the long-term, its history, character and location indicate its suitability for that purpose rather than for housing” (page 235).

Prematurity

9.89 The LPA considers that the appeal proposal should be properly viewed as substantial and overwhelming in its scale. It is wholly inconsistent with the SAP.

9.90 The SAP process is the correct method for determining the relative merits of all sites considered for development. The appeal site (HG3-23) has been considered through that process and it has been determined that there are more sustainable alternatives to meeting the housing requirement in the Outer South West Housing Market Characteristic Area for the plan period.

9.91 It is considered, in line with the advice of the NPPF that the Plan led system is the most appropriate mechanism for determining whether residential development of this scale should be supported on the appeal site. The SAP considers a range of sites to distribute sustainable allocations in line with CS levels of development.

9.92 The SAP provides for a range of suitable, available and achievable sites for the plan period and does not need to rely on the application site.

9.93 It is the LPA's view that given the scale of development on this site (over 700 units), granting permission to the proposal would have an unacceptable prejudicial impact in terms of the SAP. The site represents more than 18% of the overall target for the Outer South West HMCA and an approval of the proposed development would prejudice not only the appeal site but in addition, sites for allocation across the whole area, prejudicing the very significant progress underlying the SAP.

9.94 Properly applied, the Planning Practice Guidance advises against this specific development proposal:

“...arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- *the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*
- *the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”*

Policy Conclusions

- 9.95 When balanced against the Development Plan and the NPPF it is considered that development in this location would not constitute sustainable development.
- 9.96 The proposal is contrary to the Settlement Hierarchy within the CS.
- 9.97 The proposal is out of keeping with strategic principles as set out in NPPF and CS but that also, on its own terms, is not sustainable due to insufficient local access and key facilities.
- 9.98 Furthermore, it is considered that by prejudicing the SAP and by introducing unsustainable qualities, the adverse impacts of the development would significantly and demonstrably outweigh the benefits of additional housing delivery.
- 9.99 Separately, specific policy for the purposes of paragraph 85 of the NPPF indicates that the proposed (permanent) development should be restricted (and should not be approved, at the present time).
- 9.100 In consideration of paragraph 14 of the NPPF, planning permission should be refused.

Highways and Transportation

- 9.101 The proposal is to serve the 770 dwellings from two access points. The wider PAS could accommodate further housing as indicated on the applicant's Site Masterplan. A signal controlled access from A654 Thorpe Lane east of the site and a signal controlled access point off A653 Dewsbury Road west of the site are proposed. The applicant has indicated that discussions are ongoing with Highways England with regards operational requirements for access/egress at the existing depot, which is to be retained.
- 9.102 These negotiations were on-going at the time the appeal was submitted. Therefore, Highways are unable to assess this proposed access at this point in time, while discussions with Highways England are on-going. In addition, with regard to the deliverability of the access off A653 Dewsbury Road is not clear if this can be achieved as it involves the operational land of the adjacent Highways England depot and there is no certainty this land can be acquired, and many aspects of the submitted Transport Assessment are not agreed.
- 9.103 The applicants are attempting to resolve the outstanding highways issues both with Highways Officers and Highways England on the new parallel planning application. It is understood that Highways England have no objections in principle to the use of their operational land subject to an acceptable access

arrangement to their depot and a commercial agreement relating to the required land. The appellant has indicated they are confident all outstanding highway issues will be resolved by the time of the Inquiry in November 2017. However until a revised Transport Assessment and supporting access information is received and assessed, the appealed scheme is considered to be unacceptable on highway grounds. This is reflected in the outstanding holding direction issued by Highways England, which is currently in place until August 2017.

Putative Reason for Refusal 6: Impact Assessment and outstanding issues and areas of concern

- 9.104 The surrounding highway network to the site forms part of the local strategic network and Highway England Strategic Road Network (SRN). To the south of the site is the M62 motorway and the A650 Bradford Road. To the west of the site is A653 Dewsbury Road and to the east of the site is the A654 Thorpe Lane.
- 9.105 Access to the site is taken from the A653 and A654. Many junctions which are considered critical to the highway network of Leeds surround the site or are within the study area of the site.
- 9.106 A key issue arising under putative reason for refusal 6 is the potential inability of the local highway network to accommodate both the number and nature of trips that would likely arise from the proposed development. This concern relates to the impact that additional traffic would have at the A653 Dewsbury Road site access, the interaction of this site access with M62 Junction 28 (Tingley Roundabout), the impact at Tingley Roundabout, and numerous other junctions on the strategic highway network.
- 9.107 The proposal fails to demonstrate that the local highway infrastructure, including the wider network, which will be affected by additional traffic as a result of the proposal, is capable of satisfactorily absorbing the significant additional pressures which will be placed upon it by the corresponding increase in traffic, and separately, of safely accommodating the increase in vehicle movements likely to be generated by the proposal.
- 9.108 It is considered that the submitted Transport Assessment is inadequate, for the following reasons
- The TA identifies the traffic data that has been used for the assessment. Some of this data cannot be accepted as it is too old and therefore potentially inaccurate for the purpose of assessing traffic impacts. The use of this data is therefore not acceptable on this strategic part of the highway network.
 - Approved development at the Capitol Park site to the west of the development site should be considered as committed development in the assessment scenarios. This has not been carried out and will affect the results of junction assessments.
 - The Trip Rates adopted by the developer are not accepted. The Average Person Trip rates from the industry standard TRICS database were obtained to estimate the trip generation for the proposed development. The lower layer super output area data has been utilised, the mode share for the area used (Leeds 107B) is not considered representative of the proposed development. This will potentially underestimate the traffic impact of the development.

- Further information is required on the trip distribution and assignment as this may lead to inaccurate assumptions on how traffic will route to and from the site.
- The Transport Assessment assumes that no background traffic growth will occur which is not acceptable on this strategic part of the highway network in this outer area of Leeds. By not including background growth the future performance of highway network may be inaccurate.
- The submitted Transport Assessment does not include any accident analysis of the surrounding highway network that would be affected by the proposal.
- The highway authority has concerns regarding the design of the proposed highway works as they have not been subjected to a road safety audit . As is standard practice, the highway authority has requested independent road safety audits of the access points and any mitigation proposals.
- Pedestrian and cycling infrastructure surrounding the site is limited/substandard, unattractive and unsafe. An accessibility audit of key routes has been requested including across Junction 28 of the M62 motorway (Tingley Roundabout). Existing uncontrolled crossing points at the M62 slip roads are not considered safe for the expected impact and use that the site would bring about.
- Stage 1 Safety Audits are required for the proposed site access points and other modifications found to be necessary to support the development. The site access proposals and wider pedestrian routes proposed to date by the appellant are not considered to be acceptable as, together, they fail to provide or demonstrate a safe access solution to the site.
- The applicant has undertaken site access and junction assessments on the surrounding highway network. However, for the reasons outlined above the impact of the development has not been adequately assessed both on the local strategic roads/junctions and Highways England's Strategic Road network (SRN). The results of the developer's Transport Assessment are therefore not accepted and cannot be relied upon for assessing the impact of the planning application.

9.109 Due to the reasons above, the Local Planning Authority considers that the applicant has so far failed to demonstrate that the local highway infrastructure, including the proposed site access off A653 Dewsbury Road and off A654 Thorpe Lane, and the wider strategic highway network which will be affected by additional traffic as a result of this development, is capable of safely accommodating the proposed development and absorbing the additional pressures placed on it by the increase in traffic, cycle and pedestrian movements which will be brought about by the proposed development. The proposal is therefore considered to be contrary to Policy T2 of the Core Strategy, Policy GP5 of the adopted UDP Review and the sustainable transport guidance contained in the NPPF which combined requires development not to create or materially add to problems of safety, environment or efficiency on the highway network.

9.110 The Highway Authority and Highways England are working with the developer's highway consultant to try to resolve the above issues through the new planning application and the submission of a revised Transport Assessment.

Putative Reason for Refusal 3: Accessibility Outstanding Issues and areas of concern

- 9.111 Insufficient information has been submitted with the application to demonstrate that an acceptable level of accessibility, with regard to the scale of development proposed. In the absence of such information and measures, as may be secured, there is a serious concern that future residents will be overly reliant on the private car, contrary to development plan policy and the NPPF.
- 9.112 It is noted that the location of the site and the nature of the existing public transport infrastructure is such that the site falls significantly short of the Core Strategy accessibility standards.
- 9.113 It is therefore for the appellant to demonstrate that they can make the development sustainable. The accessibility standards for residential development serving 5 or more dwellings are set out in the Core Strategy. These standards apply across the whole of the Leeds District.

Public Transport

- 9.114 The Core Strategy Accessibility Standards and Public Transport SPD requires the maximum walking distance to a bus stop not to exceed 400m; and to a rail stop not to exceed 800m. As it stands the majority of the site lies outside the recommended walking distance to a bus stop with acceptable service frequency.
- 9.115 The Core Strategy Accessibility Standards and Public Transport SPD requires the maximum walking distance to a bus stop not to exceed 400m; and to a rail stop not to exceed 800m. As it stands the majority of the site lies outside the recommended walking distance to a bus stop with acceptable service frequency.
- 9.116 The nearest rail stop to the site is at Morley, but this is well beyond an acceptable walk distance. There are no bus stops on A654 Thorpe Lane that are within an acceptable walk of the site. The nearest bus stops to the site are located on A653 Dewsbury Road in both directions offering a 15 minute frequency to Leeds in the northbound direction and a 60 minute frequency to Wakefield Westgate rail station and Wakefield bus station in the southbound direction. The reduced bus frequency in the southbound direction is because the more frequent services in the northbound direction are unable to access the southbound bus stop. The applicant proposes to install a bus gate at A653 Dewsbury Road which will enable all buses to call at the southbound bus stop. This needs to be investigated further to provide better bus priority through the new junction arrangement in both directions.
- 9.117 To improve the accessibility of the site it is proposed to divert an existing bus service (117) through the site. However, the bus service is an hourly service to Leeds and Wakefield and therefore the proposed bus improvement still does not result in acceptable accessibility standards for this site. West Yorkshire Combined Authority (WYCA) has had initial discussions with the bus operator with regards improvement to the existing bus frequency for the service proposed for diversion. WYCA indicates that it would cost up to £1.5m for a 30 minute service over a 5 year period. At this point in time, there is no firm commitment from the appellants to deliver these Public Transport improvements, and no draft S106 which includes improvements to Public Transport provision and the resulting service would still fall short of the Accessibility Standards. Officers are uncertain as to whether concerns regarding the accessibility and sustainability credentials of the site can be fully overcome due to the site's isolated location.

Walking/Cycling

- 9.118 In terms of wider accessibility issues, due to the size of the site not all of the dwellings are within an acceptable walk of existing Local Services. However, it is noted that the application includes for a convenience store. An audit of pedestrian and cycle routes has been requested between the site and Blackgates Primary School, Woodkirk Academy and the White Rose Centre. A safe route across Tingley Interchange needs to be created to ensure there would be a safe route between the site and Woodkirk Academy.
- 9.119 It is considered that existing pedestrian infrastructure serving the appeal site is limited and/or unattractive and that the appeal proposal would be likely to unacceptably increase reliance on the car.
- 9.120 The Highway Authority and Highways England are working with the developer's highway consultant to try to resolve the above issues and understand what is actually proposed to be delivered through the new planning application to improve the accessibility/sustainability of the site.

Travel Plan

- 9.121 The application was supported by a Travel Plan. The Travel Wise reviewed this document, and stated the Travel Plan should be amended to include the following.
- Leeds City Council Travel Plan Review fee of £5850
 - Improvements to bus services, including provision of bus gate on Dewsbury Road
 - Provision of a residential travel plan fund of £370,562.50
 - Walking distances should be measured from the centre of the site. The walking routes to the schools need further consideration to make sure they are safe.
 - Only the 117 and 217 bus services serve the southbound bus stop on Dewsbury Road (bus stop number 45011332). A bus gate is needed at this location to ensure that the frequent bus services use the stop (202/203).
- 9.122 In addition to the comments made by the Travel Plan team, Highways England similar comments on the Travel Plan who raise similar concerns.
- 9.123 Despite the provision of a Travel Plan the site currently falls significantly short of the Core Strategy Accessibility Standard and the Travel Plan is not considered to remedy this situation. The appeal site is not considered to be sustainable, resulting in a high reliance on the use of the private car.
- 9.124 For the above reasons it is considered that the proposed development will be contrary to policies SP1, T2 and H2 of the Core Strategy and policy and GP5 of the adopted UDP Review in addition to the NPPF.

Noise

- 9.125 The appeal site lies directly adjacent to the M62 on its southern boundary and also adjacent to the A653 on the western boundary. These are sources of considerable, constant noise. Further to these noise sources, noise emanates from the Highways Agency depot that is sited adjacent to the access off the A653 and which operates on a 24 hour, 7 day a week basis (which provides a base from which motorway maintenance is carried out, including operations such as gritting and re-fuelling).
- 9.126 A road noise survey was carried out with monitoring locations at a number of points around the western and southern boundaries of the site. The baseline noise level measurements were undertaken in September 2012 and May 2014. This demonstrated that during the day time noise levels on all surrounding roads (M62/A653 and Thorpe Lane) was above 72 decibels. A part of the appeal site along the southern section had noise levels of 63 – 72 decibels. The majority of the appeal site recorded noise levels of 55 – 63 decibels. The only part of the site where noise was at a level of less than 55 decibels was a very section part of the northern boundary (albeit no monitoring was undertaken there).
- 9.127 During the night-time period there was shown to be no real discernible change in the noise levels; road noise dropped to more than 66 decibels, with the southern section registering 57 – 66 decibels, whilst the majority of the appeal site registered 45 – 57 decibels.
- 9.128 The Noise Report refers to (cancelled) PPG24 on Noise (but, it is noted, not in extant planning policy and guidance on noise, etc.) which categorises noise arising from road traffic, as follows:
- Category A – (<55 dB day, <45 dB night) – noise need not be a determining factor in granting planning permission.
 - Category B – (55-63 dB day, 45 – 57 dB night) – noise should be taken into account and where appropriate conditions imposed to ensure an adequate level of protection.
 - Category C – (63-72 dB day, 57-66 dB night) – planning permission for housing should not normally be granted. Where it is considered that planning permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.
 - Category D – (>72 dB day, >66 dB night) – planning permission for housing should be refused.
- 9.129 Under these categories the noise recordings indicate that the area adjacent to the roads falls within Category C, with the majority of the site falling within Category B. Noise was noted to come mainly from road sources, but there was also low level noise associated with the Highways England Depot, from Springfield Garden

Centre and from domestic and farm activities around the site. There was also a low level of noise from a generator room on the eastern side of the HE Depot.

- 9.130 Potential mitigation has been scoped to include the use of noise barriers (including earth bunds and fences). The use of 4 or 5m high barriers would reduce some noise, however would still result in noise levels over 50 dB at night in first floor areas.
- 9.131 Additional mitigation would also be required, and the Report notes that this could include the layout of the houses themselves, screening of rear garden areas by houses, use of additional acoustic barriers, glazing specifications and ventilation measures. It is considered that these issues could be addressed through the detailed design of the scheme at the Reserve Matters stage.

Education

- 9.132 As stated in paragraphs 9.48 and 9.132-9.134, there is not at present capacity within local schools to accommodate the education demand generated by a housing development of 770 dwellings. Blackgates and Westerton Primary schools are both within reasonable distance of the site, however Education have stated it is anticipated an increase in future Reception class cohorts in future years which means only Blackgates Primary is likely to have any spare capacity to absorb some housing generated demand (approx. 7 places per year group or 200 dwellings until 2021). However, there may be some scope to expand Blackgates Primary if required (subject to feasibility assessment and the outcome of a statutory consultation process).
- 9.133 The nearby SAP site HG5-8 is wholly allocated for school use and if brought forward would deliver a 2 form entry free school, alongside a 1 form expansion at Blackgates Primary School, which could provide sufficient places in the area to meet all future the anticipated SAP demand in the Ardsley/ Tingley area including estimated demand from the Tingley Station site. However, the Tingley Station sites isolated location alongside a busy ring road, roundabout and the M62 makes it potentially problematic from a school admissions perspective, i.e. identifying a safe walking route to schools within the surrounding area, if it is possible to do so, this may result in an unreasonable walking distance and therefore an unreasonable school place offer. Tingley station also makes an unattractive option for the location of new school provision as a capacity of 770 dwellings would yield an estimated 27 children per year group (less than a single form of entry) and would potentially suffer from the same safe walking route issues in reverse as it would need to pull in additional pupils from outside of the development to make a new school viable.
- 9.134 If the Tingley Station site was to be adequately connected at Thorpe Road, by pedestrians links (which is dependent on the exact layout to be determined at the Reserve Matters stage), Middleton Primary school and the new Acre Mount Free School (scheduled to open Sept 2018) may be within a reasonable distance of the development. Although Middleton Primary school projections indicate that they will

not have any spare capacity for the foreseeable future - there is also basic need and new housing related pressure in Middleton - the new Free school may offer a small amount of spare capacity in the area. However, at this point in time it cannot yet be accurately estimated how much capacity would be available, until the school has opened. Education have stated it is anticipated any spare capacity would be far less than required to meet the needs of this site due to the existing demand for additional places in this area. However the statutory duty to provide education places lies with the Local Authority, not the developer, and as such, the application cannot be refused due to a lack of school places. The purpose of CIL is to ensure there are adequate funds to provide education provision for new developments.

Affordable Housing

- 9.135 Core Strategy policy H5 identifies the affordable housing policy requirements. The site lies within Affordable Housing Zone 2 on Map 12 of the Core Strategy. The affordable housing requirement is 15% of the total number of units, with 40% for households on lower quartile earnings and 60% for households on lower decile earnings.
- 9.136 It has been indicated that the requirement for 15% of the total number of dwellings to be affordable will be met by the proposed development. Due to the outline nature of the application the full details of the affordable provision is not known but an indicative layout including indicative affordable housing locations are included in the submission. The quality and mix of the affordable units will be the same as the open market dwellings. If the application was considered acceptable in all other respects, this would be secured through a S106 agreement.

Ecology

- 9.137 The Nature Conservation Officer has raised no objections to the proposal, but has stated saved UDP policy N39B encourages the reopening of culverted water courses, and it is not clear from the submitted Masterplan whether the Deanshaw Beck is to be reopened. As part of the biodiversity enhancements we would expect this to be done and it is considered to be important to form a north-south green corridor through the site. This could be conditioned for details to be submitted at the Reserve Matters stage, if the application was considered acceptable in all other respects. The Nature Conservation Officers has raised no objection to the proposal, subject to conditions, which include biodiversity enhancements and management's plans.
- 9.138 It is noted a number of the objections received relate to the loss of wildlife and ecosystems. The site is not known to have any special ecological value, and has no special ecological designation. It is not considered that this could constitute a reason for refusal. As stated above, the Nature Conservation Officer has raised no objections to the proposal, and the submitted Masterplan shows extensive areas of on-site green space, and green corridors through the site.

Drainage and Flood risk

- 9.139 The application has been supported by a full Flood Risk and Drainage Assessment. Engineers in Mains Drainage have stated they are satisfied that the Assessment adequately demonstrates that the proposed development will not be at significant risk of flooding and that flooding will not be increased off-site through the use of Sustainable Urban Drainage Systems (SuDS). The proposed Masterplan appears to include sufficient space to accommodate the SuDS, which will be required. Conditions are recommended which deal with feasibility studies with regard to the use of infiltration methods, drainage systems and culverts. Yorkshire Water have raised no objections to the proposal subject to conditions.

Other Matters

- 9.140 Air Quality: Although no objection has been raised by Council Officers with regard to air quality, it is noted that cumulative development in the area could result in a negative impact on air quality, (e.g. housing sites to the south of the M62). A revised air quality assessment would therefore be needed to account for this if permission is granted on other sites. For this particular site however the proposal for electric vehicle charging points will provide a level of mitigation and should be included in the final design.
- 9.141 Contamination: The Environment Agency point out that part of the development lies above a historic landfill and this therefore poses a high risk of pollution to controlled waters. Developers will need to follow a risk management framework, and model procedures for dealing with this. A Phase 2 Site survey and subsequent remediation and validation reports would be required and can be addressed by conditions.
- 9.142 Public Rights of Way: A number of PROW affect the site, including no. 69 Morley to the north east of the site, no. 68 Morley through the middle of the site, No.71 Morley to south and No. 65 Morley on the south western corner. Some of these will be directly impacted by the proposal, others will see an increase in use as a result, therefore a scheme of improvements and widening would be required to ensure the site adequately connects with existing footpaths.
- 9.143 West Yorkshire Archaeology Advisory Service: the site is known to include possible medieval earthworks, the site of a second world war heavy anti-aircraft battery, railway lines and earthworks of medieval agriculture. Remains of later prehistoric and Roman periods are also possible, along with evidence of early mining. The proposal would therefore result in the destruction of any remains. WYAAS, as the Authorities experts in this matter have requested further detailed work and investigations prior to determination of this application as this may reveal matters of such importance that the development may be required to be amended/changed to accommodate. WYAAS recommend conditions as well, but stress that this should

be as a last resort. As the investigations can be controlled through condition it is not considered sufficient to warrant a full refusal reason on the lack of current information.

Section 106 obligations and CIL

- 9.144 In the circumstances that the Council were able to determine the application, any approval would also be subject to several planning obligations to be secured via a S106 agreement. The S106 Agreement would include the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities, off-site highway works and training and employment clauses.

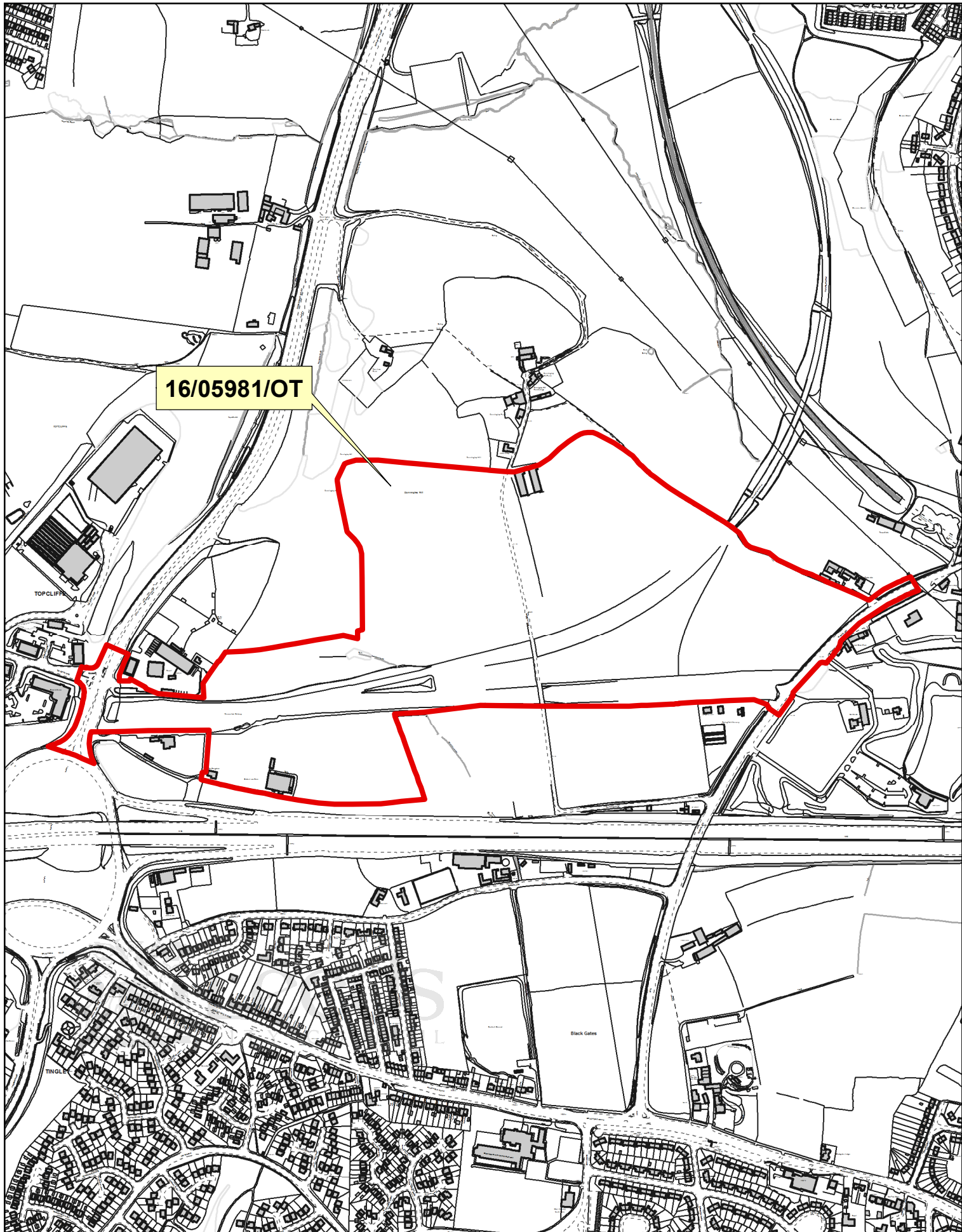
10 Conclusion

- 10.1 The application is considered to be unacceptable due to the reasons set out in this report. Seven refusal reasons are set out at the head of the report but are discussed further below:
- 10.2 RR1 – this sets out that the appeal proposal is contrary to the spatial development strategy for Leeds which seeks to locate development primarily within the Main Urban Area and the major settlements. This policy arises from the need to ensure that new developments are adequately served by sufficient local services and facilities, with good levels of accessibility. As noted above the appeal site is physically isolated from both the Main Urban Area of Morley and Middleton, and from the smaller settlement area of Ardsley and Tingley, and cannot be viewed as forming any natural extension to or rounding off of one of these settlements. Policy SP1 does allow for key locations that are identified as sustainable extensions, however the appeal site is not considered to be one of these, especially given issues regarding accessibility and the capacity of local infrastructure.
- 10.3 RR2 – this sets out that the development is in an unsustainable remote location contrary to paragraph 70 of the NPPF and paragraph 38. These paragraphs are concerned with accessibility to local services such as schools, community facilities, shops, health care etc. The existing situation is that local schools would not be able to cater to the demand that 700 units would provide, particularly at the primary school level. No proposal has been put forward by the appellant to address this through the provision of a new school on site. As a result children would be forced to travel long distances in various directions to access school provision putting a strain on community cohesion.
- 10.4 RR3 – Insufficient information has been submitted to demonstrate that the site can meet accessibility criteria set out in the adopted Accessibility Standards of the CS.

- 10.5 RR4 – this sets out that as a Protected Area of Search then the release of the land would be contrary to policy N34 of the UDP, and would unacceptably undermine the plan led system.
- 10.6 RR5 – the proposal is considered to predetermine decisions which relate to the scale and phasing of new development and the designation of safeguarded land which is set out in the SAP. As set out above the allocation of housing land has been carried out in an inclusive manner with the involvement of local communities, businesses and other interested parties. To utilise this site would over-ride the plan led system which is based on joint working and cooperation.
- 10.7 RR6 – sets out the failure of the applicant to demonstrate that the site can be safely accessed and that it will not have a harmful impact on local highway capacity.
- 10.8 RR7 – no s106 has been submitted to cover issues of affordable housing, greenspace, travel planning, local facilities, off-site highway works etc. so consequently the proposal fails to comply with numerous adopted policies.
- 10.9 Matters of accessibility, location, infrastructure all indicate that this particular proposal fails to achieve sustainable development which is the whole purpose of the planning system (paragraph 6 of the NPPF). The site has not been brought forward in the SAP for the reasons set out in the appraisal, and consequently the proposal, if allowed, would be damaging to the local development plan principles and objectives. This harm is considered to wholly outweigh the benefits of the proposal in terms of providing housing, even given the current lack of a five year land supply and consequently cannot be supported.
- 10.10 Members should note that as part of the appeal process, officers of or on behalf of the LPA will continue to discuss the development proposal with a view to narrowing the reasons for refusal. It is likely that the applicant, in preparing for the appeal, will submit a draft S106 Agreement and this may serve to overcome the concerns raised in Reason for Refusal 7.
- 10.11 Members are therefore asked to consider the recommended refusal reasons set out above, and to agree them for the purposes of contesting the appeal against non-determination.

Background Papers: Application reference 17/01103/OT

Certificate of Ownership: Signed by applicants.



CITY PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/7500





- DENOTES APPLICATION RED LINE
- DENOTES APPLICATION BLUE LINE
- DENOTES PAS BOUNDARY LINE

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PROJECT: TROLLEY STATION AND SITE
DATE: 15/08/18
SCALE: 1:10000
DATE: 15/08/18
DESIGNER: TIA ARCHITECTURE
DATE: 15/08/18
PROJECT NO.: 15/08/18

THIS IS A CONCEPT DRAWING IN ORDER TO ASSIST ANY SUBSEQUENT REPRESENTATION TO BE MADE AND IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.